

In general, shipping and handling or delivery charges are includable in the gross receipts subject to tax unless the buyer and seller agree upon such charges separately from the selling price of the tangible personal property which is sold. In addition, such charges must be reflective of the costs of shipping and delivery. To the extent that these charges exceed the costs of shipping, they are subject to tax. See 86 Ill. Adm. Code 130.415. (This is a GIL).

July 17, 2000

Dear Xxxxx:

This letter is in response to your letter dated April 26, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's Web site at [www.revenue.state.il.us/legalinformation/regs/part1200](http://www.revenue.state.il.us/legalinformation/regs/part1200).

In your letter, you have stated and made inquiry as follows:

COMPANY is engaged in the business of direct selling candles and candle accessories through Independent Sales Consultants located in your state and throughout the country. Consultants are Independent Contractors who arrange to hold home demonstrations of COMPANY candles and accessories. These demonstrations take place in potential customers' home. These customers are referred to as Hostesses. At the conclusion of the home demonstrations the Orders are sent to COMPANY and fulfilled. The Orders are shipped to the Hostesses' home where she distributes the COMPANY products to the other guests who purchased items at the demonstration.

From time to time, we receive inquiries from our Independent Consultant and/or customers concerning the sales and use tax being charged on the shipping and handling associated to their Orders. All sales and use tax collected at this Show from customers is remitted to COMPANY who forwards the tax on to your state. At this time, COMPANY has instructed its Illinois Consultants that sales and use tax should be collected on the shipping and handling charges. Does this position accurately reflect your state's law? Or is it required that shipping and handling is deemed non-taxable for Illinois sales and use tax purposes?

I would very much appreciate it if you would clarify this sales and use tax issue for us as soon as possible so that COMPANY can appropriately respond to our Consultants and/or their customers and properly remit sales and use tax to your state.

A response to this inquiry can be forwarded to my attention at the address above. Thank you in advance for your prompt response to this inquiry.

July 17, 2000

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The best evidence that shipping and handling or freight charges have been contracted for separately from the selling price is a separate contract for shipping and handling or freight charges. A separate listing of freight charges on an invoice, by itself, is insufficient. However, documentation that demonstrates that purchasers had the option of taking delivery of the property, at the sellers' location for the agreed purchase price, or having delivery made by the seller for the agreed purchase price, plus an ascertained or ascertainable delivery charge, will suffice.

Mail order delivery charges are deemed to be agreed upon separately from the selling price of the tangible personal property being sold so long as the mail order form requires a separate charge for delivery and so long as the charges designated as transportation or delivery or shipping and handling are actually reflective of the costs of such shipping, transportation or delivery. See subsection (d) of Section 130.415. If the retailer charges a customer shipping and handling or delivery charges that exceed the retailer's cost of providing the transportation or delivery, the excess amount is subject to tax.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte  
Associate Counsel

GR:msk  
Enc.